

DOCKET NO. 3:07-CV-00221-FDW

Defendants.

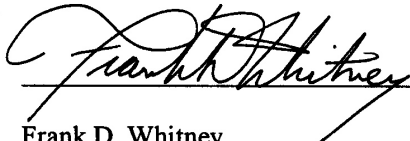
THIS MATTER comes now before the Court upon Plaintiffs’ Motion for Leave to File Second Amended Complaint (Doc. No. 44), Plaintiffs’ Amended Motion to for Leave to File Second Amended Complaint (Doc. No. 46), and Plaintiffs’ Second Amended Motion for Leave to File Second Amended Complaint (Doc. No. 49). Although the time for amended pleadings has expired pursuant to the Case Management Order in this case (Doc. No. 32), the Court finds that Plaintiffs have met the “justice so requires” standard of Federal Rule of Civil Procedure 15(a) and the “good cause” standard of Federal Rule of Civil Procedure 16(b) for their first two motions. Therefore, the Court hereby GRANTS Plaintiffs’ Motion for Leave to File Second Amended Complaint and Plaintiffs’ Amended Motion for Leave to File Second Amended Complaint. However, the Court finds that Plaintiffs’ Second Amended Motion for Leave to File Second Amended Complaint is untimely and that Plaintiffs have not satisfied the “good cause” standard of Rule 16(b). See DeWitt v. Hutchins, 309 F. Supp. 2d 743, 748 (M.D.N.C. 2004) (“[G]ood cause is not shown if the

amendment could have been timely made.”). Therefore, Plaintiffs’ Second Amended Motion for Leave to File Second Amended Complaint is DENIED.

Furthermore, the parties shall TAKE NOTICE that this matter has been set for a Markman hearing and summary judgment hearing to be held at **9:00 a.m. on December 21, 2007**, in Courtroom #1 of the Charles R. Jonas Federal Building in Charlotte, North Carolina.

IT IS SO ORDERED.

Signed: November 30, 2007


Frank D. Whitney
United States District Judge

